IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 12356 of 2007(U)

PETITIONERS:

1. **SOFIYA KAREEM, MOOTHEDATH, KOOVAKKATTIL, THAIKKATTUKARA P.O., ALUVA.**
2. **PRASANTH P.H., PUTHUVALIL HOUSE, CHEMPU P.O., VAIKOM, KOTTAYAM.**
3. **SUNITHA HANSAR, HAFEER MANZIL, KUMBALAM P.O., ERNAKULAM.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

1. **GOVERNMENT OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, PERSONNEL & ADMINISTRATIVE REFORMS (RULES) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE SECRETARY, PUBLIC SERVICE COMMISSION, THIRUVANANTHAPURAM.**
3. **THE PUBLIC SERVICE COMMISSION REPRESENTED BY ITS SECRETARY, PATTOM, THIRUVANANTHAPURAM.**
4. **THE DISTRICT OFFICER, PUBLIC SERVICE COMMISSION, ERNAKULAM.**

....2/-

***ADDL.R5 TO R18 ARE IMPLEADED:**

R5. BIJU T.M.,
MULLASSERILL HOUSE,
OOPPOOTTIL JUNCTION, KOTTAYAM – 1.

R6. MANOJKUMAR S.R.,
SANTHOSH BHAVAN,
MARIYAPPALLY P.O., KOTTAYAM – 686 023.

R7. KARTHIKA K.R.,
KOTHANATHU HOUSE,
ETTUMANOOR P.O., KOTTAYAM.

R8. BINOJ.B.,
THAMARAVELIL HOUSE, ULLALA,
THALYAZHAM P.O., VAIKOM, KOTTAYAM DISTRICT.

R9. PREETHA T.GOPAL,
VALLIARACHIRA, VECHOOR P.O.,
EDAYAZHAM, VAIKOM, KOTTAYAM.

R10. MANJUSHA C.V.,
MUNDACKAL HOUSE, N.S.H.M. P.O.,
KOTTAYAM.

R11. NISHA BALAN K.,
MUNDANAMTHUNDATHIL, KOTHANALLOOR P.O.,
KOTTAYAM.

R12. BINDU T.D.,
NANDANAM, MANGANAM P.O.,
KOTTAYAM.

R13. DEEPA K.K.,
KOOLIPARAMBIL HOUSE, VELOOR P.O., KOTTAYAM – 3.

R14. BINCY B.,
NAMBUKATTIL, KONTTU ROAD,
NORTH GATE, VAIKOM, KOTTAYAM.

....3/-

R15. SMITHA CHELLAPPAN,
MANALILPARAMBIL HOUSE,
ACNADI P.O., VAIKOM, KOTTAYAM.

R16. BINDU NAIR,
RESMI BHAVAN,
PERUMBAIKAD P.O., KOTTAYAM.

R17. JOSHILA V.T.,
VATTUKALATHIL HOUSE,
MARIATHURUTHU P.O., KOTTAYAM.

R18. MAYA B.NAIR,
SANTHA SADANAM,
ANICKADU P.O., PALLICKATHODU,
KOTTAYAM DISTRICT.

(*ADDL.R5 TO R18 ARE IMPLEADED AS PER ORDER DTD. 15/06/2007 IN I.A.NO.8038/2007)

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN
SRI.ROY JOSEPH
SMT.M.S.SOUJATH
SRI.P.K.M. HASSAN for R5-R18
BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007 ALONG WITH WPC NO. 12969 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.12356/2007 U

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE G.O.(P) NO.19/2004/P&ARD DTD. 8/12/2004 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF THE G.O.(P) NO.17/2005/P&ARD DTD. 09/05/2005 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: COPY OF THE NOTIFICATION ISSUED BY THE P.S.C. AS CATEGORY NO.226/2005 FOR THE POST OF L.D.TYPIST (BY TRANSFER) IN VARIOUS DEPARTMENTS.

EXT.P4: COPY OF THE LETTER NO.30786/C1/06/HOME DTD. 08/01/2007 ISSUED BY THE 1ST RESPONDENT.

EXT.P5: COPY OF THE SHORT LIST DTD. 18/01/2007 PUBLISHED BY THE P.S.C. FOR THE POST OFL.D.TYPIST IN ERNAKULAM DISTRICT.

EXT.P6: COPY OF THE CALL LETTER DTD. 23/01/2007 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER.

EXT.P7: COPY OF THE LETTER NO.INFORMATION/37790/06 DTD. 07/02/2007 ISSUED BY THE STATE PUBLIC INFORMATION OFFICER.

EXT.P8; COPY OF THE ORDER NO.D.R.1(2)20691/06/G.S.DTD. 15/12/2006 ISSUED BY THE P.S.C.

EXT.P9: COPY OF THE REQUEST SUBMITTED BY THE PETITIONERS AND OTHER CANDIDATES INCLUDED IN THE RANK LIST BEFORE THE P.S.C. DTD. 15/02/2007.

4TH RESPONDENT'S EXHIBITS:

EXT.R4(1): COPY OF THE G.O. DTD. 2/04/1984.

EXT.R4(2): COPY OF THE CIRCULAR NO.Q1/39556/04/D DTD. 28/07/2005.

EXT.R4(3): COPY OF THE REPRESENTATION DTD. NIL.

/TRUE COPY/

KSS

K. BALAKRISHNAN NAIR, J.

W.P.(C) No.12356 & 12969 of 2007

Dated this the 15th June, 2007.

JUDGMENT

W.P.(C)12356 of 2007

The petitioners are applicants for appointment to the post of Lower Division Typist in various departments in Ernakulam District, under direct recruitment quota from the open market. Ext.P3 is the notification published by the Public Service Commission. One of the notified qualifications is English Typewriting (Lower) and Certificate in Computer Word Processing or equivalent. It is specifically stated in the notification that those who passed Kerala Government Technical Examination in English Typewriting before January, 2002, should produce a separate certificate in Computer Word Processing or equivalent qualification. All the petitioners have passed English Typewriting (Lower) Examination (K.G.T.E.) before January, 2002, and, therefore, they have also passed the examination in Computer Word Processing, before the last date for receipt of the applications, which was 15.2.2006. While the selection process was going on, the Public Service

Commission issued Ext.P8 proceedings dated 15.12.2006, stating that computer word processing qualification, acquired after undergoing a course of not less than three months duration, conducted by the Central or State Government Departments, Agencies, Societies or Universities, alone will be accepted as equivalent qualification for computer word processing. The said order was issued invoking the Commission's power under Rule 13(b) of the Kerala State and Subordinate Services Rules. The petitioners submit that the Public Service Commission is not competent to say what are the equivalent qualifications during the middle of the selection process. They should have specified it in the notification itself. Therefore, Ext.P8 should be quashed or, at any rate, should not be made applicable to the selection made pursuant to the notification, Ext.P3, it is submitted.

W.P.(C)12969 of 2007

2. The case of the petitioners herein is identical to the case of the petitioners in W.P.(C)12356 of 2007. They relied on the communication of the

Government, Ext.P7, stating that the qualification of computer word processing prescribed for the post of L.D.Typist must be K.G.T.E. Computer Word Processing. They also rely on Ext.P8 letter addressed by the Government to the Registrar of this Court. In the face of those communications, the decision to accept Computer Word Processing Certificate issued by other institutions is illegal, submit the petitioners.

3. The Public Service Commission have filed counter affidavit in W.P.(C)12356 of 2007, supporting its order. According to it, the notification specifically stated that equivalent qualification will be accepted. But, the equivalent qualifications were not specified. So, at the stage of verification of the applications received, since a large number of candidates, possessing Computer Word Processing qualification applied for the post, to avoid unnecessary confusion, the Commission issued the impugned proceedings dated 15.12.2006. According to it, the Public Service Commission is competent to do so as per Rule 13(b) of the Kerala State and Subordinate Services Rules. The

additional respondents also support the stand of the Public Service Commission.

4. The petitioners relied on the decisions of this Court in **Mukesh v. State of Kerala (2006 (3) KLT 63)** and also **Mukesh v. State of Kerala (2006 (3) KLT 1023)** in support of their submission. The learned counsel for the respondents distinguish the said decision, saying that it was a case where the notification did not mention that equivalent qualifications will be accepted.

5. Rule 13(b) of the Kerala State and Subordinate Services Rules reads as follows:

> "**13 . Special qualifications.**-- No person shall be eligible for appointment to any service, class, category or grade or any post borne on the cadre, thereof unless he--
>
> (a) xxx xxx xxx
>
> (b) possesses such other qualifications as may be considered to be equivalent to the said special qualifications or special tests--

(i) by the Commission in cases where the appointment has to be made in consultation with it; or

(ii) by the State Government or by the appointing authority with the approval of the State Government, in other cases.

xxx xxx xxx xxx ”

7. Whenever equivalent qualification is acceptable according to the special rules and where appointment is on the advice of the Public Service Commission, it is authorised to say what are the acceptable equivalent qualifications. In other cases, it is for the Government to say, what will be the equivalent qualifications. So, the Public Service Commission is definitely authorised to say what are the equivalent qualifications. But the point is whether the Public Service Commission can do it in the course of the selection process. When a new qualification is stated to be acceptable, there may be several candidates who might have been eligible to apply. They will not get a chance to compete along with others, unless it is notified that the equivalent qualification is also acceptable. It is

based on that principle, the aforementioned decisions were rendered. In those cases, the notification did not say that equivalent qualifications will also be accepted. In this case, in the notification itself it is stated that equivalent qualifications will be accepted. But it was not specified, which are the acceptable equivalent qualifications. Normally, any certificate issued by any institution under the sun in computer word processing could be used for submitting application. But, by the impugned order, the Public Service Commission has introduced a restriction, stating that certificates issued by the Central or State Government Departments and the institutions mentioned therein alone will be accepted. Persons like the petitioners, who are already having such certificates are not really affected. Candidates who have acquired qualifications from other institutions, not covered by the order of the Public Service Commission, alone are affected adversely. Therefore, the petitioners being persons not aggrieved, cannot challenge the impugned order of the Public Service Commission. By the present order, the field is further restricted, which, in effect, restricts the number of

candidates. It is a decision favourable to the petitioners, who are qualified candidates. Therefore, I find no reason to interfere with the impugned order issued by the Public Service Commission, at the instance of the writ petitioners.

These writ petitions, therefore, fails and is dismissed.

K. BALAKRISHNAN NAIR,
JUDGE.

vav.